Evidence-Based, Culturally Competent Practices in the Judicial System

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Consulting

IE Consulting
Innovate & Excel through Research, Evaluation & Training

Objectives

- Become <u>aware</u> of diversity issues

- Review principles of effective interventions

- Review drug court model

- Learn responses to diverse populations

Cultural Spectrum

- Cultural Awareness
  - Aware that we are different (not color-blind)
- Cultural Humility
  - How do I change my life based on my biases?
- Cultural Competency
  - Provide appropriate services
- Cultural Relevant
  - Organizational structure VALUES diversity

Terms & Definitions

- Dominant group: Receive <u>unearned</u> benefits or privilege

- Targeted group: <u>Denied</u> benefits or privilege

- Oppression is <u>access</u> to social, political, & economic power by dominant group <u>at the expense</u> of the target group.

- Privilege is <u>unearned benefits</u> simply for belonging to the dominant group

  - Privilege is "invisible"

  - Dominant group cannot see own privilege (benefits)

  - Therefore, judgmental on target group problems

Faces of Oppression

- Marginalization (keep out of the mainstream society)

- Powerlessness (lack of empowerment & self-determination)

- Exploitation (benefit by abusing powerlessness of target group)

- Cultural Imperialism

  - Effects of European colonization still present

  - Replace original culture with European values

Vehicles of Oppression

- Define Norms
  - Social norms are based on Dominant Values
- Institutional Power
  - Gov't, Schools, Society, etc
- Victim blaming
  - Problems are brought on by self (poor cause lazy)
- Tokenism
  - "Successful" target member is used as "evidence" that discrimination no longer exists
- Assimilation:
  - Become the Dominant Group (without full benefits)

Got Privilege?

- Dominant or Target Group?
  - Race/Ethnicity
  - Gender
  - Age
  - Social Economic Class
  - Sexual Orientation
  - Religion
  - National Origin
  - Physical &/or Mental Ability
  - Appearance

I Got Privilege!!

- Dominant Groups:
  - Race/Ethnicity – White/ European
  - Gender – Male
  - Age – Middle age
  - Social Class – Middle/upper class
  - Sexual Orientation – Heterosexual
  - Religion – Christian (Religious/Spiritual)
  - National Origin – USA (east/west coast/urban)
  - Physical &/or Mental Ability – TAB/M
  - Appearance – European/"Attractive"/Innocent

Responding to Oppression

- Target group responses to dominant group:

  - Anger (caused by direct/indirect effects of oppression)

  - Distrust (from past broken promises)

  - Secretive (elicits perception of deviance)

  - Be "saved" (assimilation)

  - Be "the rep" for the targeted group (educating role)

  - Fear of being "outed" if "hidden population"

    - Gay/lesbian, plural family, disabled, etc.

Ethnicity/Race & CJ

- Over-representation of ethnic/racial minorities in the criminal justice system

- 4 out of 5 drug <u>prisoners</u>:

    - African-American 56%

    - Latino 23%

- Overall drug <u>use</u>:

    - African-American 13%
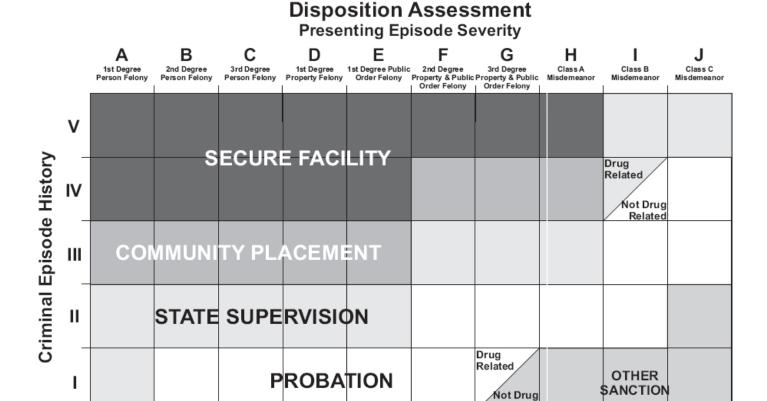
    - Latino 9% (ICPSR, 2000)

OJJDP National Stats (Puzzanchera, 2009)

2007	White	African American	Asian/Pacific Islander	American Indian
Population	78%	17%	5%	1%
Arrests for violent crimes	47%	51%	1%	1%
Arrests for property crimes	66%	32%	1%	1%

Disproportionate Minority Contact

- Maybe minorities more criminal?

- Disproportionate Minority Contact (DMC)

- Minorities are in contact with criminal justice system disproportionately more as compared to Whites (Engen et al., 2002)

- The UCJC study assessed DMC while controlling for presenting offense & criminal history

  - Utah sample (over 9000 youth)

  - Juvenile Sentencing Matrix

Juvenile Sentencing Matrix

DMC Results

- Latino youth were:

  - **1.3 times** more likely to receive a more <u>severe sanction</u> than White youth

  - **1.8** times more likely to receive <u>secure care</u> than White youth

  - **6.7** times more likely to be transferred to <u>adult court</u> than White youth

DMC Results

- African American youth were:

  - **3.2** times more likely to receive <u>secure care</u> than White youth

- Pacific Islander youth were:

  - **1.6 times** more likely to receive a more <u>severe sanction</u> than White youth

  - **7.7** times more likely to be transferred to <u>adult court</u> than White youth

Responding to Racial Disparities

National Association of Drug Court Professionals (NADCP)

Resolution of the Board of Directors (2006)

On the Equivalent Treatment of Racial & Ethnic Minority Participants in Drug Courts

Responding to Racial Disparities

All DC have an affirmative obligation to <u>examine</u>, in an ongoing manner, whether there are potential racial or ethnic disparities in their program (collection of reliable/valid data)

All DC have an affirmative obligation to take reasonable <u>actions</u> to prevent or correct racial or ethnic disparities that may be found to exist (evidence-based policies/practices & staff training)

Addressing the Problem

- Are Drug Courts the answer?

- The adoption of evidence-based, culturally proficient interventions in DC has been shown to significantly <u>improve</u> outcomes for minority participants (Hardin & Kusher, NDCI, 2008; Mauer, 2009)

- Evidence suggests that racial & ethnic minority participants may be experiencing relatively <u>lower</u> success rates than non-minorities in some Drug Courts (Finigan, 2009)

Drug Court Model

- Systems approach to alcohol & drug abuse

- Integrate drug treatment with justice system

- Non-adversarial approach (work as a team)

- Identify & treat eligible clients early

- On-going judicial interaction/intense supervision

- Coordinated strategy for compliance/non-compliance

DC Literature Review

- Research generally supports effectiveness of Drug Courts

- Research has not revealed exactly why Drug Courts are effective

  - Drug testing?

  - Intense supervision?

  - Treatment?

  - Judicial interaction?

DC Literature Review

- Gottfredson et al. (2003)

- Randomly assigned 235 DC v TAU (2 year f/u)

- DC clients had reduced crime & drug use

- Problems with implementation fidelity (50% Tx)

- DC clients with Tx more effective than w/o TX

- Additionally, treatment with highly trained staff were related to better outcomes

Principles of Effective Interventions (RNR Model)

- Risk – WHO to target: Identify High Risk Offenders

- Needs – WHAT to target: Criminogenic needs

- Responsivity – HOW to target: CBT, therapeutic relationship & culturally responsive interventions

- Research generally supports RNR model

  - Risk, Need, CBT, therapeutic relationship...

Gaps in RNR Model

- Responsivity Principle

- Cultural responsiveness to build therapeutic relationship is lacking significantly

- Characteristics of the individual offender must be matched to the:

    - Treatment program

    - Personnel delivering the service

- Lack of effective treatments with oppressed groups

    - Females, African-Americans, refugees, etc.

Responsivity Factors

- Age (youth, elderly)

- Gender (female)

- Race/Ethnicity (racial/ethnic minorities)

- Socio-economic status (low SES, "working class")

Responsivity Factors

- Sexual Orientation (Lesbian, Gay, Bisexual)

- Gender identity (Trans-gendered)

- Disability (Physical, Mental)

- Cultural identity (individualistic v collectivistic)

Exercises

- Where in the Drug Court process can there be disparities?

- Assessment?

- Supervision?

- Treatment?

- Judicial interaction?

Exercise 1

- Client

    - 16 year-old boy (looks very young, 12 yo)

    - White

    - Low SES family

    - Deaf

- DC team discussing appropriateness for program

Exercise 2

- Client

    - 17 year-old girl

    - Rural community

    - Latina

    - Lesbian

- DC supervision/monitoring

Exercise 3

- Client

  - 14 year-old boy (looks 19 yo)

  - Samoan (recently moved to US mainland)

  - ADHD

- DC Judicial Interaction

Strategies for Reducing Racial Disparity

- JUDICIARY

- Research & Assessment of Disparity

- Expand the Range of Available Bail & Sentencing Options

- Promote Leadership Development

- Educate the Public

Strategies for Reducing Racial Disparity

- Example of Judiciary "Best Practices"

- Judge Requested Researchers to Collect Data on School Zone Cases

- Discovered Racial Disparities in Arrests/Charges

  - Minorities more likely to be charged with distribution of drug (52% v 15%)

  - Minorities with less than 1/8th cocaine 4 times more likely to be charged with distribution

Strategies for Reducing Racial Disparity

- Shared Findings with Law Enforcement & Prosecutors

- Several Comments, "It has to do with whether it's a good kid or bad kid."

- Rather than Releasing Report, worked together "quietly" to Work on Institutional Change

- Courts, Prosecutors, & Police Developed Guidelines for Fairer Handling of School Zone Cases (Keough, 2000)

Strategies for Reducing Racial Disparity

- PROSECUTION

- Research & Assessment of Disparity

- Collaborate to Develop Effective Strategies to Reduce Crime

- Develop & Monitor Prosecutorial Guidelines

- Engage in Public Advocacy

- Encourage Diversity in the Legal Profession

Strategies for Reducing Racial Disparity

- DEFENSE

- Research & Assessment of Disparity

- Effective Representation of Defendants

- Advocate for Appropriate Pretrial Services

- Advocate for Sentencing Reforms that will Reduce Racial Disparities

- Legal Education & Advocacy

Strategies for Reducing Racial Disparity

- PROBATION

- Research & Assessment of Disparity

- Reorient Probation Services toward a Community-Based Model

- Develop a Range of Sanctions for Non-Compliance

- Develop & Utilize Objective Risk Management Assessments

- Promote Leadership Development

Strategies for Reducing Racial Disparity

- JAILS & PRISONS

- Research & Assessment of Disparity

- Monitor Race Relations in Institutions

- Use Affirmative Action in Recruitment & Leadership

- Utilize Community Resources to Augment Services

- Assess Program Implementation

Strategies for Reducing Racial Disparity

- PAROLE & REENTRY

- Research & Assessment of Disparity

- Establish Working Relationships with Community-Based Organizations

- Develop Relationships with other Criminal Justice Agencies

- Develop Race-Neutral Risk Management Assessments

- Assure Diversity of Leadership & Orientation

Strategies for Reducing Racial Disparity

- LAW ENFORCEMENT

- Research & Assessment of Disparity

- Development & Use of Arrest Alternatives

- Implementation of Cultural Competency as Core Component in Operations & Training

- Educate the Public on Development of Approaches to Reduce Disparity

- Development of Community Policing Approaches

Strategies for Reducing Racial Disparity

- PRETRIAL

- Research & Assessment of Disparity

- Education & Advocacy

- Development & Implementation of Race-Sensitive Policies & Practices

Strategies for Reducing Racial Disparity

- ADMINISTRATIVE ACTIONS

- Research & Assessment of Disparity

- Collaborative Actions

- Develop a Framework to Assess Decision Points

- Provide Oversight & Monitor Decision Points

- Establish objectives/strategies to reduce disparities

- Call for Strong Leadership to Prioritize Racial Justice

General Recommendations

- Go through leadership & use liaisons
  - Formal & informal
  - Individuals from the hidden populations
- Be flexible
  - Perception of time, taboos, etc
- Acculturation rather than assimilation
  - Diversity improves innovation
- Assessment:
  - Use ethnographic interviewing methods
  - They are the expert; you are the student

General Recommendations

- Strength-based
  - Do NOT use deficit-based interventions
    - See only problems of targeted group
  - Value diversity
    - Not just <u>tolerate</u> diversity
  - Focus on strengths of targeted group
    - Empowerment
- Ally movement
  - Use privilege of dominant group to end oppression of targeted group
  - Target group is leadership because they experience oppression & dominant group cannot see benefits

General Recommendations

- Evidence-based policies & practices

  - Professional expertise

  - Research

  - <u>Client knowledge</u> (specifically from oppressed, targeted groups)

Questions?

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